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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0074; Notice 1]

BMW of North America, LLC, a Subsidiary of BMW AG, Receipt of
Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of petition.

SUMMARY: BMW North America, LLC,¹ a subsidiary of BMW AG, (collectively referred to as BMW)² has determined that certain model year 2012 BMW X3 SAV multi-purpose passenger vehicles manufactured between April 1, 2011 and March 14, 2012, do not fully comply with paragraph S4.3.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less*. BMW has filed an appropriate report dated March 28, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

¹ BMW North America, LLC, is a U.S. company that manufactures and imports motor vehicles.

² BMW AG, is a German company that manufactures motor vehicles.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles Involved: Affected are approximately 1,409 model year 2012 BMW X3 SAV multipurpose passenger vehicles manufactured between April 1, 2011 through March 14, 2012.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 1,409³ vehicles that BMW no longer

³BMW's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt BMW as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 1,409 affected vehicles. However, a decision on this petition will not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant

controlled at the time it determined that the noncompliance existed.

Noncompliance: BMW's explained that the noncompliance is that the certification label required by 49 CFR Part 567 does not list rim information for the tires installed on the vehicles as original equipment as required by paragraph S4.3.3 of FMVSS No. 110.

Rule Text: Paragraph S4.3.3 of FMVSS No. 110 requires in pertinent part:

S4.3.3 Additional labeling information for vehicles other than passenger cars. Each vehicle shall show the size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for the tire appropriate for use on that vehicle, including the tire installed as original equipment on the certification label required by part 567.4 or part 567.5 of this chapter. This information shall be in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the following format:

GVWR: 2,441 kilograms (5381 pounds).

GAWR: Front-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.0 rims at 248 kPa (36 psi) cold single.

GAWR: Rear-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.00 rims, at 248 kPa (36 psi) cold single.

Summary of BMW's Analysis and Arguments:

BMW states that while the certification label required by 49 CFR Part 567 does not contain tire and rim information for

vehicles under their control after BMW notified them that the subject noncompliance existed.

tires and rims that were installed as original equipment, the information pertains to tires and rims that are appropriate for use on the vehicles. BMW also argues that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. If a driver only checks the certification label (which indicates either 17-inch tires or 18-inch tires) or if the driver checks the certification label and the FMVSS No. 110 tire and loading information Vehicle Placard (which shows the size of the tires originally installed on the vehicle), and is unsure as to the proper inflation pressure and the size of the tires installed on the vehicle, there are a number of information sources and services available which can be used to inform the driver of the correct tire size and tire pressure.
 - a. A driver could check the specific tires installed on the vehicle. The information that is stamped onto the sidewall of those tires corresponds to the information contained on the FMVSS No. 110 tire and loading information Vehicle Placard. A driver would be able to determine that the tires installed on the vehicle correspond to the tires indicated on the FMVSS 110 tire and loading information Vehicle Placard. Therefore, a driver would be able to add

the correct amount of air pressure to the tires in order to achieve the proper inflation level.

- b. If the driver were to use the tire size shown on the certification label in order to look up the associated tire pressure in the owner's manual and then pressurize the tires to that pressure the Tire Pressure Monitoring System would not need to initiate.
- c. The driver will also be able to refer to the vehicle's Owner's Manual which contains information pertaining to the various tire sizes and tire pressures for the affected vehicles.
- d. BMW also offers Roadside Assistance and BMW Assist (only included with Premium Package and as a stand-alone option) which are available 24 hours/day with representatives that are available to provide drivers with all of the available tires sizes and specifications for the affected vehicles.

BMW has received no customer complaints and are unaware of any accidents or injuries regarding this noncompliance of the affected vehicles.

BMW has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

BMW also explains that NHTSA has previously granted similar petitions.

In summation, BMW believes that the described noncompliance of its certification labels is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Comments: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the

decision will be published in the Federal Register pursuant to the authority indicated below.

Comment Closing Date: [insert date 30 days after publication in FEDERAL REGISTER].

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

Issued on: October 4, 2012

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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